

JUDGE STEIN

14 CV 1254

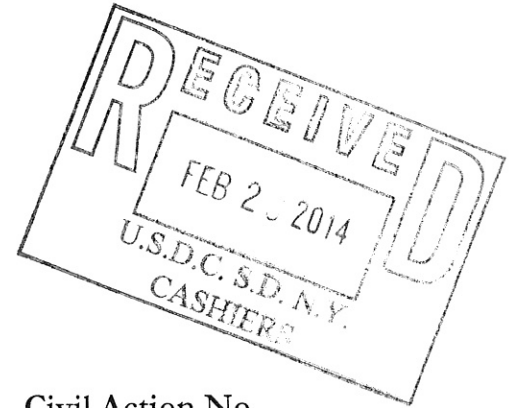
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE FASHION EXCHANGE LLC,

Plaintiff,

v.

HYBRID PROMOTIONS, LLC,  
JARROD DOGAN, GAVIN DOGAN,  
JIMMY JAZZ, INC., FOOT LOCKER, INC.,  
NATIONAL STORES, INC.,  
FOREVER 21 RETAIL, INC.,  
HOT TOPIC, INC., GAP (APPAREL), LLC,  
WORLD OF JEANS & TOPS,  
PACIFIC SUNWEAR OF CALIFORNIA, INC.,  
COSTCO WHOLESALE MEMBERSHIP, INC.,  
SPORT CHALET, INC., ROSS STORES, INC.,  
BIG 5 SPORTING GOODS CORPORATION,  
THE SPORTS AUTHORITY, INC.,  
TWEEN BRANDS, INC.,  
THE TJX COMPANIES, INC.,  
THE WET SEAL RETAIL, INC.,  
SPENCER GIFTS LLC,  
OLD NAVY, LLC, RUE21, INC.,  
LORD & TAYLOR HOLDINGS LLC,  
J.C. PENNEY CORPORATION, INC.,  
BJ'S WHOLESALE CLUB, INC.,  
BOSCOV'S DEPARTMENT STORE, LLC,  
WAL-MART STORES, INC.,  
DICK'S SPORTING GOODS, INC.,  
KOHL'S DEPARTMENT STORES, INC.  
MACY'S MERCHANDISING GROUP, INC.,  
POPSUGAR, INC., SHOPKO STORES  
OPERATING CO., LLC,  
FAMILY DOLLAR SERVICES, INC.,  
THE CATO CORPORATION,  
BELK STORES SERVICES, INC.,  
DILLARD INTERNATIONAL, INC.,  
SPORTS HOLDINGS, INC., ZUMIEZ, INC.,  
NORDSTROM, INC., BDSRCO, INC.,



Civil Action No. \_\_\_\_\_

**COMPLAINT FOR  
DAMAGES, INJUNCTIVE  
AND DECLARATORY  
RELIEF**

**JURY TRIAL DEMAND**

SEARS BRANDS, LLC, BLOOMINGDALE’S, INC., :  
 MARSHALLS OF MA, INC., BOB’S STORES, LLC, :  
 DOLLAR GENERAL CORPORATION, :  
 TARGET CORPORATE SERVICES, INC., :  
 THE FINISH LINE, INC., :  
 URBAN OUTFITTERS, INC., :  
 :  
 Defendants. :  
 :  
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Plaintiff The Fashion Exchange LLC (“Plaintiff”), by and through its undersigned attorneys, Zarin & Associates P.C. and Simon Gluck & Kane LLP, for its Complaint against Defendants Hybrid Promotions, LLC (“Hybrid Promotions”), Jarrod Dogan, Jeff Caldwell, Gavin Dogan, Jimmy Jazz, Inc., Foot Locker, Inc. (d/b/a Foot Locker and Lady Foot Locker), National Stores, Inc., Forever 21 Retail, Inc., Hot Topic, Inc., Gap (Apparel), LLC, World Jeans & Tops (d/b/a Tilly’s), Pacific Sunwear of California, Inc. (d/b/a Pacsun), Costco Wholesale Membership, Inc., Sport Chalet, Inc., Ross Stores, Inc., Big 5 Sporting Goods Corporation, The Sports Authority, Inc., Tween Brands, Inc. (d/b/a Justice), The TJX Companies, Inc. (d/b/a T.J.Maxx), The Wet Seal Retail, Inc., Spencer Gifts LLC, Old Navy, LLC, Rue21, Inc., Lord & Taylor Holdings LLC, J.C. Penney Corporation, Inc., BJ’s Wholesale Club, Inc., Boscov’s Department Store, LLC, Wal-Mart Stores, Inc. (d/b/a Walmart and Sam’s Club), Dick’s Sporting Goods, Inc., Kohl’s Department Stores, Inc., Macy’s Merchandising Group, Inc., Popsugar, Inc. (d/b/a Shopstyle.com), Shopko Stores Operating Co., LLC, Family Dollar Services, Inc., The Cato Corporation, Belk Stores Services, Inc., Dillard International, Inc., Sports Holdings, Inc. (d/b/a Hibbett Sports), Zumiez, Inc., Nordstrom, Inc., BDSRCO, Inc. (d/b/a Bealls and Stage), Sears Brands, LLC (d/b/a Sears and K-Mart), Bloomingdale’s,

Inc., Marshalls of MA, Inc., Bob's Stores, LLC, Dollar General Corporation, Target Corporate Services, Inc., The Finish Line, Inc., and Urban Outfitters, Inc. (collectively "Defendants"), alleges as follows:

### **NATURE OF THE ACTION**

1. This is an action for trademark infringement, unfair competition and deceptive and unfair trade practices, under the Lanham Act and New York state law, and for a declaration of trademark ownership, under the Declaratory Judgment Act.

2. Plaintiff's trademark infringement, unfair competition and deceptive and unfair trade practices claims stem from Defendants' use of the trademark HYBRID on the same goods, clothing, as Plaintiff uses its trademark HYBRID & COMPANY. On these claims, Plaintiff seeks injunctive relief as well as monetary damages, including but not limited to compensatory and punitive damages.

3. Plaintiff's declaration of trademark ownership claim stems from Defendant Hybrid Promotions' effort to obtain cancellation of Plaintiff's trademark registration, Registration No. 3,723,220, for the trademark HYBRID & COMPANY. As relief for this claim, Plaintiff seeks a declaration that its trademark registration for the mark HYBRID & COMPANY is valid and enforceable.

### **THE PARTIES**

4. Plaintiff The Fashion Exchange LLC is a limited liability company organized and existing under the laws of the State of New York, with a principal place of business at 1407 Broadway, Suite 1706, New York, New York 10018.

5. Upon information and belief, Defendant Hybrid Promotions LLC is a limited liability company organized and existing under the laws of the State of California, with a principal place of business at 10711 Walker Street, Cypress, California 90630.

6. Upon information and belief, Defendant Jarrod Dogan is a citizen of California, the Chief Executive Officer and a co-founder of Hybrid Promotions LLC, and maintains a residence at 706 24<sup>th</sup> Place, Hermosa Beach, California 90254.

7. Upon information and belief, Defendant Jeff Caldwell is a citizen of California, the Executive Vice President and a co-founder of Hybrid Promotions LLC, and maintains a place of business at 10711 Walker Street, Cypress, California 90630.

8. Upon information and belief, Defendant Gavin Dogan is a citizen of California, the Chief Marketing Officer of Hybrid Promotions LLC, and maintains a residence at 3010 Grayson Avenue, Venice, California 90291.

9. Upon information and belief, Defendant Jimmy Jazz, Inc. is a corporation organized and existing under the laws of the State of New York, with a place of business at 85 Metro Way, Secaucus, New Jersey 07094.

10. Upon information and belief, Defendant Foot Locker, Inc. is a corporation organized and existing under the laws of the State of New York, with a principal place of business at 112 West 34<sup>th</sup> Street, New York, New York 10120.

11. Upon information and belief, Defendant National Stores, Inc. is a corporation organized and existing under the laws of the State of California, with a place of business at 15001 South Figueroa Street, Gardena, California 90248.



12. Upon information and belief, Defendant Forever 21 Retail, Inc. is a corporation organized and existing under the laws of the State of California, with a place of business at 2001 South Alameda Street, Los Angeles, California 90058.

13. Upon information and belief, Defendant Hot Topic, Inc. is a corporation organized and existing under the laws of the State of California, with a place of business at 18305 East San Jose Avenue, City of Industry, California 91748.

14. Upon information and belief, Defendant Gap (Apparel), LLC is a limited liability company organized and existing under the laws of the State of California, with a place of business at Two Folsom Street, San Francisco, California 94105.

15. Upon information and belief, Defendant World of Jeans & Tops is a corporation organized and existing under the laws of the State of California, with a place of business at 10 Whatney, Irvine, California 92618.

16. Upon information and belief, Defendant Pacific Sunwear of California, Inc. is a corporation organized and existing under the laws of the State of California, with a place of business at 3450 East Miraloma Avenue, Anaheim, California 92806.

17. Upon information and belief, Defendant Costco Wholesale Membership, Inc. is a corporation organized and existing under the laws of the State of California, with a place of business at 999 Lake Drive, Issaquah, Washington 98027.

18. Upon information and belief, Defendant Sport Chalet, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at One Sport Chalet, La Canada, California 91011.

19. Upon information and belief, Defendant Ross Stores, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 5130 Hacienda Drive, Dublin, California 94568.

20. Upon information and belief, Defendant Big 5 Sporting Goods Corporation is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 2525 East El Segundo Blvd., El Segundo, California 90245.

21. Upon information and belief, Defendant The Sports Authority, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 1050 West Hampden Avenue, Englewood, Colorado 80110.

22. Upon information and belief, Defendant Tween Brands, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 8323 Walton Parkway, New Albany, New York 43054.

23. Upon information and belief, Defendant The TJX Companies, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 770 Cochituate Road, Framingham, Massachusetts 01701.

24. Upon information and belief, Defendant The Wet Seal Retail, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 26972 Burbank, Foothill Ranch, California 92610.

25. Upon information and belief, Defendant Spencer Gifts LLC is a limited liability company organized and existing under the laws of the State of Delaware, with a place of business at 6826 Black Horse Pike, Egg Harbor Township, New Jersey 08234.